

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 EA-07 IO-13 ISO-00 DODE-00 NSAE-00
USIA-06 TRSE-00 ERDA-05 CIAE-00 COME-00 STR-04 ITC-01
/057 W

-----121217Z 010180 /12-S

R 120835Z MAR 77

FM AMEMBASSY WARSAW

TO SECSTATE WASHDC 7038

INFO AMEMBASSY BELGRADE

AMEMBASSY BERLIN

AMEMBASSY BUCHAREST

AMEMBASSY BUDAPEST

USMISSION GENEVA

AMCONSUL HONG KONG

AMEMBASSY MOSCOW

USLO PEKING

AMEMBASSY PRAGUE

AMEMBASSY SOFIA

USMISSION NATO

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PASS TREASURY FOR UNDER SECRETARIES SOLOMON AND ANDERSON

E.O. 11652: N/A

TAGS: EEWT ETRD PL

SUBJ: ANTI-DUMPING AND COUNTERVAILING DUTY PROBLEMS FOR POLAND

REF: STATE 047475 (NOTAL)

1. SUMMARY: AFTER WASHINGTON AGENCIES FINISH THE ADMITTEDLY
DIFFICULT TASK OF MAKING IMPLEMENTATION OF OUR ANTI-DUMPING AND
COUNTERVAILING-DUTY LEGISLATION SEEM REASONABLE TO THE POLISH
VICE MINISTERIAL DELEGATION, I HOPE THEY WILL INITIATE ACTIONS
TO IMPROVE OUR TOOLS FOR DEALING WITH UNFAIR MARKET PRACTICES
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BY NON-MARKET ECONOMIES. END SUMMARY.

2. I AM PLEASED THAT STATE AND TREASURY ARE CONSIDERING VARIOUS
APPROACHES TO THE ANTI-DUMPING AND COUNTERVAILING-DUTY PROBLEMS
WITH NON-MARKET ECONOMIES (REF). I AM ALSO ENCOURAGED BY THE
OUTCOME OF THE TECHNICAL-LEVEL CONSULTATIONS IN WASHINGTON WITH
POLISH AUTHORITIES ON COUNTERVAILING DUTIES.

3. NEVERTHELESS, THE RIGIDITIES INHERENT IN U.S. ANTI-DUMPING AND COUNTERVAILING-DUTY LAWS, REGULATIONS, AND ADMINISTRATIVE PROCEDURES ARE CERTAIN TO BRING MANY MORE DISTURBANCES TO US-POLISH ECONOMIC AND POLITICAL RELATIONS. UNLESS STEPS ARE TAKEN TO IMPROVE OUR TOOLS FOR DEALING WITH UNFAIR MARKET PRACTICES BY NON-MARKET ECONOMIES (NME), POLAND'S POLICY OF INTEGRATING ITS ECONOMY MUCH MORE CLOSELY WITH THAT OF THE WEST MAY BE REVERSED. I ASSUME THE SAME COULD BE SAID OF THE OTHER EASTERN EUROPEAN COUNTRIES.

4. NO ONE, CERTAINLY NOT THE POLES, QUESTIONS OUR RIGHT TO DEVISE AND APPLY INSTRUMENTS TO PROTECT OUR INDUSTRIES FROM THE EXCESSIVE DISRUPTION WHICH MIGHT RESULT FROM THE EXPORT PRACTICES OF NME'S. BUT IT SEEMS CLEAR THAT THE APPLICATION OF THE DEVICES NOW AVAILABLE TO US NOT ONLY THREATENS TO PREVENT THE EASTERN EUROPEANS FROM EXPANDING THEIR COMMERCIAL TIES WITH THE US, BUT ALSO DOES NOT SEEM TO SERVE THE BEST INTERESTS OF EITHER THE US CONSUMER OR COMPETING US INDUSTRIES. IF WE CAN JUDGE BY THE OUTCOME OF THE GOLF-CART CASE, THE APPLICATION OF THESE DEVICES CAN ONLY RESULT IN SHARPLY DIMINISHED OPPORTUNITIES FOR US BUSINESS IN EASTERN EUROPE.

5. THE POLES NOW FEAR THAT ANY OF THEIR MANUFACTURED PRODUCTS WHICH ACHIEVES SOME SUCCESS IN THE U.S. MARKET RISKS EVENTUAL ANTI-DUMPING OR COUNTERVAILING-DUTY CHARGES. THEY FORESEE A HOST OF COMPLAINTS IN THE FUTURE AGAINST THEIR INDUSTRIAL EXPORTS. THEY ARE ESPECIALLY CONCERNED ABOUT MORE SOPHISTICATED PRODUCTS, WHERE QUALITY AND TECHNOLOGICAL CONSIDERATIONS RENDER COMPARISONS LIMITED OFFICIAL USE

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WITH THIRD-COUNTRY MANUFACTURES MORE DIFFICULT AND UNPREDICTABLE.

6. I CANNOT EMPHASIZE TOO STRONGLY THE EXTENT TO WHICH THE "NO ENTRY" SIGN TO THE U.S. MARKET, WHICH THE POLISH LEADERSHIP NOW SEES, HAS BECOME A FIXATION, INDEED AN OBSESSION, AT THE HIGHEST LEVELS OF THIS GOVERNMENT. THE LEADERSHIP DECIDED IN 1971 TO EMBARK ON AN OPEN TRADE POLICY ON A LEVEL FAR ABOVE THAT OF THEIR EASTERN EUROPEAN NEIGHBORS. THEY DID SO WITH THEIR EYES OPEN, KNOWING THAT SUCH A POLICY WOULD INVOLVE MUCH WIDER TRAVEL AND EXPOSURE OF POLES NOT ONLY TO WESTERN TECHNOLOGY, BUT TO THE VALUES AND LIFE-STYLE OF THE WEST AS WELL. THEY KNEW IT WOULD REQUIRE A LONG-TERM COMMITMENT TO CLOSER INTEGRATION OF THEIR ECONOMY WITH THE WEST. AND NOW, WHEN THEY ARE HAVING REAL ECONOMIC DIFFICULTIES, THEY ARE CONFRONTED WITH WHAT THEY ARE CONVINCED IS AN AMERICAN COLD SHOULDER TO IMPORTS FROM POLAND.

7. I BELIEVE THE GOLF-CART CASE HAS SHOWN THAT THE USE OF CURRENT ANTI-DUMPING PROCEDURES DOES NOT EFFECTIVELY SERVE OUR DOMESTIC ECONOMIC INTERESTS. ONLY IN THE EXTREME CASE, IF POLAND SHOULD

BE FORCED OUT OF THE GOLF-CART BUSINESS COMPLETELY, AS THE POLES FEAR WILL NOW TAKE PLACE, COULD WE SAY THAT THE INTERESTS OF U.S. PRODUCERS HAD BEEN ADVANCED BY THE APPLICATION OF CURRENT PROCEDURES. SHORT OF THIS EXTREME AND UNDESIRABLE OUTCOME, U.S. DOMESTIC INTERESTS WILL NOT HAVE BEEN WELL SERVED.

8. FIRST, THE POLES CONTINUED THROUGHOUT THE 1974-1976 PERIOD TO EXPORT MORE THAN 7,000 CARTS A YEAR. I AM CONVINCED, HOWEVER, THAT, AT THE BEGINNING OF THIS PROCESS ALMOST THREE YEARS AGO, THEY WOULD HAVE ACCEPTED A QUANTITATIVE LIMITATION OF ABOUT 5,000 PER YEAR, WITH SOME PROVISION FOR GROWTH IN SALES. THUS, A QUANTITATIVE APPROACH TO MARKET-DISRUPTION OF OUR DOMESTIC PRODUCERS IN THOSE THREE YEARS.

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9. SECOND, ONE INTERPRETATION OF THE FAIR-VALUE DETERMINATION FOR 1976 WOULD LEAD THE POLES TO SIGN LONG-TERM CONTRACTS WHENEVER A RELATIVELY LOW SALES PRICE CHARGED BY THE CANADIAN PRODUCER COULD

BE VERIFIED. THE POLES MIGHT THUS OBLIGATE THEMSELVES TO PROVIDE ANNUALLY 7,000 OR MORE CARTS FOR A PERIOD OF, SAY, FIVE YEARS AS THEIR ONLY WAY OF GUARDING AGAINST THE DISASTROUS IMPACT OF A MAJOR CHANGE IN, OR COMPLETE SUSPENSION OF, ACTIVITIES BY THE "PRODUCER OF COMPARISON." BY PUSHING THE POLES TOWARD LONG-TERM CONTRACTS, OUR CURRENT APPROACH LEADS US TO ACT AGAINST, NOT IN SUPPORT OF, THE INTERESTS OF DOMESTIC PRODUCERS. (COMMENT: THIS DESCRIBES THE BEST STRATEGY FOR MELEX IF IT IS ABLE TO LIMITED OFFICIAL USE

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REMAIN IN BUSINESS FOLLOWING THE IMPOSITION OF DUMPING DUTIES.
END COMMENT)

10. THIRD, IF THE POLES WANTED TO BE CRAFTY, THEY COULD INDIRECTLY PROVIDE THE KNOW-HOW FOR PRODUCTION OF GOLF-CARTS OR SOME OTHER PRODUCT TO A WILLING LDC WHICH COULD EASILY DOCUMENT ITS LOW PRODUCTION COSTS AND ALSO EXPORT TO THE U.S. ONCE AGAIN, THE POSITION OF DOMESTIC PRODUCERS WOULD DETERIORATE FURTHER AND THE EFFECT OF THE ANTI-DUMPING PROCEDURE WOULD BE FAR REMOVED FROM ITS INTENT.

11. PROSPECTS FOR EXPANDING U.S. EXPORTS TO POLAND ARE ENDANGERED BY THE PROTECTIONIST IMPACT OF OUR RIGID PROCEDURES. POLAND'S TRADITIONAL POLICY OF BILATERAL BALANCING HAS NOT BEEN APPLIED TO THE U.S., AS IT HAS TO THE FRG AND OTHER WESTERN COUNTRIES, SINCE THE WARSAW AUTHORITIES CONFIDENTLY EXPECTED THAT THE LARGE U.S. MARKET EVENTUALLY WOULD ABSORB SIZEABLE INCREASES IN POLISH EXPORTS TO COMPENSATE FOR THE LARGE TRADE DEFICITS RUNG UP BY THEM IN RECENT YEARS. AS THEY SEE OUR MARKET INCREASINGLY RESTRICTED BY INFLEXIBLE ANTI-DUMPING AND COUNTERVAILING-DUTY ACTIONS, THE POLES CAN BE EXPECTED TO SHIFT PURCHASES AWAY FROM U.S. SUPPLIERS. OUR AGRICULTURAL EXPORTS MAY SUFFER THE MOST, SINCE POLAND REALIZES THAT OUR FARM ORGANIZATIONS HAVE A GREAT INTEREST IN EXPORTING AND ARE EFFECTIVE LOBBYISTS ON THE WASHINGTON SCENE.

12. IN MY VIEW, U.S. PRODUCERS AND CONSUMERS WOULD BE BETTER SERVED BY A SYSTEM WHICH ALLOWED US TO JUDGE AT AN EARLY STAGE THE IMPACT OF THE LAW ON ACTUAL EXPORT LEVELS AND ON FINAL PRICES. THE GOLF-CART CASE HAS BEEN A THREE-YEAR GUESSING GAME FOR EVERYONE INVOLVED. USE OF MARKET-DISRUPTION CRITERIA WOULD PROBABLY HAVE BEEN MORE MANAGEABLE AND HAVE ALLOWED FOR A MODICUM OF PLANNING. IT MIGHT EVEN HAVE PERMITTED U.S. CONSUMERS TO BENEFIT FROM LOWER IMPORT PRICES, WHILE PROTECTING U.S. PRODUCERS. THE INTERPRETATION AND APPLICATION OF THE LAW IN 1974-1976 DID NOT HELP PRODUCERS DRAMATICALLY, BUT IT DID DRIVE UP IMPORT PRICES.
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ONE OBVIOUS BENEFIT ACCRUED TO A U.S. PARTY IN THE GOLF-CART CASE; PEZETEL PAID ITS U.S. ATTORNEYS OVER \$200,000 IN 1974-1976.

13. I AM NOT SUGGESTING THAT THE MARKET-DISRUPTION PROCEDURES OF THE TRADE ACT ARE A FAULTLESS SOLUTION TO OUR EAST-WEST TRADE PROBLEMS. NOR DO I HAVE ANY ADVICE FOR WASHINGTON ON HOW AND WHEN TO APPROACH CONGRESS. HOWEVER, I BELIEVE THE TIME HAS COME FOR AN IMAGINATIVE REAPPRAISAL OF OUR POLICY. I AM CONVINCED THAT, UNLESS WE RESOLVE THIS CLUSTER OF PROBLEMS, WE WILL SEE A LONG SERIES OF GOLF-CART CASES WHICH WILL GREATLY DISTURB OUR BILATERAL ECONOMIC AND POLITICAL RELATIONS. POLAND'S FAILURE TO INCREASE TRADE WITH THE U.S., COUPLED WITH THE PROTECTIONIST ATTITUDE OF THE EC, COULD RESULT IN SERIOUS POLISH QUESTIONING OF GIEREK'S POLICY OF TRYING TO REINTEGRATE THE POLISH ECONOMY INTO THE WORLD MARKET. OUR FAILURE TO SHOW THE POLISH AUTHORITIES THAT WE ARE CAPABLE OF SUCH A REAPPRAISAL WOULD CREATE THE SERIOUS RISK OF A REVERSAL OF GIEREK'S POLICY.

13. IN THE SHORT RUN, POLAND WILL DOUBTLESS COMPLAIN AT BELGRADE ABOUT EVIDENCES OF WHAT THEY SEE AS GROWING U.S. PROTECTIONISM. THE GOLF-CART CASE IS MADE TO ORDER FOR THIS PURPOSE. HOW, AFTER ALL, CAN ONE DUMP ABROAD A PRODUCT FOR WHICH THERE IS NO DOMESTIC MARKET?
DAVIES

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EAST WEST TRADE, COUNTERVAILING DUTIES, ANTIDUMPING LAW (TRADE)
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977WARSAW01772
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
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From: WARSAW
Handling Restrictions: n/a
Image Path:
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Line Count: 250
Litigation Code IDs:
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Litigation History:
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Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 47475
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 11-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3124648
Secure: OPEN
Status: NATIVE
Subject: ANTI-DUMPING AND COUNTERVAILING DUTY PROBLEMS FOR POLAND
TAGS: EEWT, ETRD, PL, US
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/618d24b9-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009